



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2017-0699; FRL-9981-41-Region 6]

Air Plan Approval; Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving portions of the revisions to the Arkansas State Implementation Plan (SIP) submitted by the Arkansas Department of Environmental Quality (ADEQ) on March 24, 2017. Most of the revisions are administrative in nature and make the SIP current with Federal rules. The EPA is also making ministerial changes to the Code of Federal Register (CFR) to reflect SIP actions pertaining to the Arkansas Prevention of Significant Deterioration (PSD) program.

DATES: This rule is effective on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless the EPA receives relevant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2017-0699, at <http://www.regulations.gov> or via email to paige.carrie@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from

Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Carrie Paige, 214-665-6521, paige.carrie@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Carrie Paige, 214-665-6521, paige.carrie@epa.gov. To inspect the hard copy materials, please schedule an appointment with Ms. Paige or Mr. Bill Deese at 214-665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The SIP is a set of air pollution regulations, control strategies, and technical analyses developed by the state to ensure that the state meets the National Ambient Air Quality Standards (NAAQS). These ambient standards are established under section 109 of the Act and they currently address six criteria pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The SIP is required by Section 110 of the Act and can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

On March 24, 2017, the Governor of Arkansas submitted to the EPA revisions to the Arkansas SIP. The submittal includes revisions to the Regulations of the Arkansas Plan of Implementation for Air Pollution Control enacted at Arkansas Annotated Code (“Ark. Code Ann.”) Regulation 19 (“Reg. 19”), Chapters 1 - 5, 7, 9, 11, 13 - 15, Appendix A, and Appendix B, and the Infrastructure and NAAQS SIPs. EPA has taken separate action on the following portions of this submittal: 1) On December 21, 2017, EPA approved the revisions to Reg. 19, Chapter 2, that address the definition of “Volatile Organic Compounds” (see 82 FR 60517); 2) On February 14, 2018, EPA approved the Infrastructure portion (see 83 FR 6470); 3) On June 29, 2018, EPA approved the revisions to Reg. 19, Chapter 4, that address Minor New Source Review (see 83 FR 30553); And, 4) on June 29, 2018, EPA proposed to approve the revisions that address interstate transport requirements for the 2012 PM_{2.5} NAAQS and the revisions to Reg. 19, Chapter 2 and Appendix B, that address the definition of 2012 PM_{2.5} in the definition of “NAAQS” and the table for “Particle Pollution, PM_{2.5}” (see 83 FR 30622). Because these prior EPA actions did not address all the submitted revisions to Reg. 19, Chapter 2 and Appendix B, today’s action addresses the remaining submitted revisions to Reg. 19, Chapter 2 and Appendix B, and the submitted revisions to Reg. 19, Chapters 1, 3, 5, 13, 14, and 15. For a

detailed list of each revision with our evaluation, please see our Technical Support Document (TSD) in the docket for this rulemaking.

II. Summary of Revisions to the Arkansas SIP and EPA Evaluation

A. Non-substantive changes:

Non-substantive changes were made to Regulation 19, Chapter 1, Sections 101 and 103; Chapter 2 definitions; Chapter 3, Sections 301 and 304; Chapter 5, Sections 502 – 504; Chapter 13, Sections 1303 and 1308; Chapter 14, Section 1401; and Chapter 15, Sections 1502 and 1504 such as edits to acronyms, punctuation and section symbols. A complete listing of the non-substantive changes is in the TSD for this action. These changes are being approved here to maintain consistency between State rules and the approved SIP.

B. Regulation 19, Chapter 2 – Definitions

Two definitions, “NAAQS state implementation plan or NAAQS SIP” and “State implementation plan or SIP” are new - these definitions are applicable to revised provisions in this SIP submittal. Several other revisions provide current references and publication dates for the specified Federal regulations within the definition. These revisions are necessary because Arkansas does not incorporate changes to the Federal regulations by reference prospectively and thus, must update its rules as Federal regulations are revised. For example, when the EPA revises test methods to allow the use of newly approved alternative procedures, the State must revise their state rules to incorporate the date of that Federal action. We find these revisions approvable.

In addition, the revisions to the definition for “CO₂ equivalent emissions” delete a sentence commonly referred to as EPA’s Biomass Deferral language, which EPA disapproved as a revision to the Arkansas SIP on May 23, 2016 (see 81 FR 32239 and 40 CFR 52.172). Because of our disapproval (see 81 FR 32239), the Biomass Deferral language was never in the Arkansas

approved SIP and thus, the State's removal of this language from its State rules is a non-substantive change. Because the submitted revisions delete previously disapproved language, we are removing the prior disapproval listed in 40 CFR 52.172(c) as described in paragraph *D* of this action.

C. Regulation 19, Appendix B – National Ambient Air Quality Standards List

The revisions to the tables for Lead, PM_{2.5}, and PM₁₀ are non-substantive because the revisions remove unnecessary punctuation. The revisions to the tables for Nitrogen Dioxide, Ozone, and Sulfur Dioxide expand the applicability of these NAAQS from Chapter 9, which addresses Administrative Permit Amendments, to include all chapters in Reg. 19. We find these revisions approvable.

D. Ministerial Changes to the CFR

We are making ministerial changes to the CFR to reflect that (1) our March 4, 2015 approval of revisions to the Arkansas PSD regulations for the PM_{2.5} NAAQS (80 FR 11573) addressed our August 20, 2012 disapproval of Arkansas infrastructure SIP elements pertaining to these NAAQS (77 FR 50033) and (2) our approval of the revised definition for "CO₂ equivalent emissions" submitted on March 24, 2017 addresses our May 23, 2016 disapproval of the definition (81 FR 32239), as described in paragraph *B* of this action and the TSD.

E. Section 110(l) Analysis

Section 110(l) of the Act precludes EPA from approving a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the CAA), or any other applicable requirement of the Act. The submitted revisions in this action expand the applicability of the NAAQS in Appendix B to all chapters in Reg. 19. In addition, the submitted revisions evaluated in this

action do not relax or otherwise weaken existing rules in the Arkansas SIP. Therefore, these revisions would not contribute to future violations of the NAAQS or interfere with reasonable further progress or any applicable CAA requirements. The non-substantive revisions also would not contribute to future violations of the NAAQS or interfere with reasonable further progress or any applicable CAA requirements.

III. Final Action

Pursuant to section 110 of the CAA, EPA is approving revisions to the Arkansas SIP submitted on March 24, 2017. Specifically, we are approving revisions to Regulation 19, Chapter 1, Sections 101 and 103; Chapter 2 definitions; Chapter 3, Sections 301 and 304; Chapter 5, Sections 502 – 504; Chapter 13, Sections 1303 and 1308; Chapter 14, Section 1401; Chapter 15, Sections 1502 and 1504; and Appendix B tables addressing Lead, Nitrogen Dioxide, Ozone, PM₁₀, and Sulfur Dioxide. The EPA is also removing the disapproval of the Greenhouse Gas (GHG) Biomass Deferral listed at 40 CFR 52.172(c).

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive relevant adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will

not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Arkansas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact Carrie Paige, 214-665-6521, *paige.carrie@epa.gov* for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: July 31, 2018.

Anne Idsal,
Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E – Arkansas

2. In §52.170:

a. In paragraph (c), the table titled “EPA-Approved Regulations in the Arkansas SIP” is amended by revising the entries under Regulation 19 for “Reg. 19.101”, “Reg. 19.103”, “Chapter 2”, “Reg. 19.301”, “Reg. 19.304”, “Reg. 19.502-504”, “Reg. 19.1303”, “Reg. 19.1308”, “Reg. 19.1401”, “Reg. 19.1502”, “Reg. 19.1504”, and “Appendix B”; and

b. In paragraph (e), the third table titled “EPA-Approved Non-Regulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP” is amended by revising the entry for “Infrastructure for the 1997 and 2006 PM_{2.5} NAAQS”.

The revisions read as follows:

§52.170 Identification of plan.

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(c) * * *

EPA-APPROVED REGULATIONS IN THE ARKANSAS SIP

State Citation	Title/Subject	State submittal/ effective date	EPA approval date	Explanation
Regulation No. 19: Regulations of the Arkansas Plan of Implementation for Air Pollution Control				
Chapter 1: Title, Intent and Purpose				
Reg. 19.101	Title	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				

Reg. 19.103	Intent and Construction	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 2: Definitions				
Chapter 2	Definitions	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	The definition of VOC submitted on 3/24/2017 was approved on 12/21/2017 (82 FR 60517). Revisions to the definition of National Ambient Air Quality Standard submitted on 3/24/2017 are addressed in a separate action.
Chapter 3: Protection of the National Ambient Air Quality Standards				
Reg. 19.301	Purpose	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Reg. 19.304	Delegated Federal Programs	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 5: General Emission Limitations Applicability to Equipment				
* * * * *				
Reg. 19.502	General Regulations	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				

Reg. 19.504	Stack Height/Dispersion Regulations	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 13: Stage I Vapor Recovery				
* * * * *				
Reg. 19.1303	Definitions	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Reg. 19.1308	Vapor Recovery Systems	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 14: CAIR NOx Ozone Season Trading Program General Provisions				
Reg. 19.1401	Adoption of Regulations	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Chapter 15: Regional Haze				
* * * * *				
Reg. 19.1502	Definitions	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Reg. 19.1504	Facilities Subject-to-BART	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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Appendix B: National Ambient Air Quality Standards List				

Appendix B	National Ambient Air Quality Standards List	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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(e) * * *

**EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE
ARKANSAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
Infrastructure for the 1997 and 2006 PM _{2.5} NAAQS	Statewide	3/28/2008 9/16/2009 12/1/2014	3/4/2015 (80 FR 11573)	Approval for CAA elements 110(a)(2)(A), (B), (E), (F), (G), (H), (K), (L), and (M) on 8/20/2012 (77 FR 50033). Approval for PSD elements (C), (D)(i)(II) (interfere with measures in any other state to prevent significant deterioration of air quality), D(ii) and (J) on March 4, 2015 (80 FR 11573)
* * * * *				

§ 52.172 [Amended]

3. Section 52.172 is amended by removing paragraphs (a), (b), and (c).

[FR Doc. 2018-16904 Filed: 8/7/2018 8:45 am; Publication Date: 8/8/2018]